# — APPEALING A RATE CHANGE DECISION

# Made by a Board of Directors or by a City Council

### Appealing a Rate Change Decision:

[Per Texas Water Code, Section 13.043(b)]

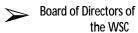
- ◆ The retail rates charged by some types of water and sewer utilities are not subject to review by the Texas Natural Resource Conservation Commission (TNRCC) unless an appeal, in the form of a petition, is filed.
- ◆ The petition must be signed by 10% of the affected ratepayers (customers) eligible to appeal. (If there are more than 100,000 eligible ratepayers, the petition is valid if signed by only 10,000.)
- ◆ The petition must be sent to the Commission within a specific period of time.

## Who Can Appeal a Rate Change Decision?

Ratepayers of the types of utilities listed below can appeal. Also shown is who has original authority to set the rates.

Type of Utility Who Approves the Rates?

Water Supply Corporation (WSC)



Water District or River Authority

Board of Directors of the District or Authority

Private- or Investor-Owned Utility Operating Inside a City



City-Owned Utility Serving Customers Outside the City\*



\*Note: Only ratepayers living outside the city are eligible to appeal. The TNRCC does not have jurisdiction to review the rates charged by a city to in-city, retail customers.

# Who Can Sign the Petition?

Each person receiving a separate bill is considered a "ratepayer." But a person can only be considered a single ratepayer regardless of the number of bills received. A petition can be signed by either the ratepayer, or their spouse.

### What Should the Petition Say?

Each signature page of the petition should include the following:

- A statement that the petition is an appeal of the decision setting the rates. In the case of an investor-owned utility operating within a city, the petition should state that it appeals the decision of the city on a rate change request by the utility.
- 2. A short description of the rate change, noting both the old and the new rates.
- The effective date of the rate change and the date the ratepayers were notified of the rate change.
- 4. A statement about why a review of the decision setting rates is being requested.
- 5. The name and address of an individual or organization who is willing to act as the ratepayers' representative.
- 6. The mailing address and phone number of the utility. In the case of an investor-owned utility operating within a city, the petition should also include the name, mailing address and phone number of the city.

Each ratepayer signing the petition should write legibly and provide the following information:

- 1. Name,
- 2. Telephone number,
- Street or rural address where service is received (a post office box number is not sufficient), and
- 4. Mailing address (if it differs from the address where service is received).

A sample petition appears on the back of this information sheet. This sample should only be used as a guideline. The wording underlined on the sample should be revised as needed for your petition. All of the elements on the sample, as noted above, should be included in your petition.

### How is the Petition Filed?

Send a copy of the petition to the utility, and send the original and four copies to the TNRCC. No filing fee is required.

The petition must be submitted within 90 days after the effective date of the rate change (unless the petition is regarding rates approved by a city for an investor-owned utility).

If the petition is appealing the rates approved by a city for an investor-owned utility, the petition should be submitted within 90 days of the date on which the city made its final decision regarding those rates. A copy of the petition should be sent to the city and to the utility. As noted above, the original and four copies of the petition should be sent to the TNRCC.

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### What Happens Next?

The Commission has 10 working days to review the petition to see if it is complete. If additional information is required, the ratepayers' representative will be contacted. The petition is then either accepted for filing or, if it is incomplete, returned. The ratepayers' representative is notified of whether the petition was accepted.

If the petition is accepted for filing, a TNRCC engineer, accountant and attorney are assigned and the petition is forwarded to the Commission's Office of Hearings Examiners so that a public hearing can be scheduled. At that hearing, an examiner will establish the Com-mission's jurisdiction, name parties to the case, and give the parties an opportunity to reach a settlement on the appeal. If the parties cannot agree to a settlement, a schedule to obtain additional information and hold additional hearings is established.

When the hearing process is completed, the examiner or administrative law judge prepares a "Proposal for Decision" to submit to the three TNRCC Commissioners. The Commissioners make the final decision on the ratepayers' appeal. Note that the rates being appealed can be put into effect even though an appeal has been filed or is pending. If the Com-missioners set lower rates, refunds may be ordered.

### Who Can Answer Any Other Questions I Have?

For additional information, please contact:

Consumer & Utility Assistance Section **Water Utilities Division Texas Natural Resource** Conservation Commission P. O. Box 13087 Austin, Texas 78711-3087 512/239-6100.

### Sample Petition:

(the wording underlined should be revised as needed for your petition.)

Petition to Appeal Rates Established by the **Board of Directors** XYZ Water Supply Corporation 1234 Main Street Anytown, Texas 99999

The undersigned ratepayers of XYZ Water Supply Corporation hereby appeal the decision of the board of directors of the <u>Corporation</u> affecting the rates charged to them by <u>XYZ Water Supply Corporation</u>. The rate change was effective on September 1, 1989, and affected the rates charged for water utility service, tap fees, late charges, and reconnect fees. On September 5, 1989 the ratepayers were notified by the service provider of this rate increase. The undersigned request that the Texas Natural Resource Conservation Commission review the decision to determine if the rates established are just and reasonable. The old rates charged by the service provider are \$20.00 minimum bill plus \$1.25 for each additional 1,000 gallons, and the new rates are \$25.00 minumum bill plus \$2.00 for each addition 1,000 <u>gallons</u>. The undersigned designate the <u>XYZ Property Owners Association</u> as their representative on this matter. Correspondence to the ratepayers' representative may be directed to Ms. Jane Doe, President, XYZ Property Owners Association, 1235 Main Street, Anytown, Texas 99999; 512/555-4321.

Name (Please Print) and Signature	Service Address (AND Mailing Address if Different from Service Address)	Phone No.
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Water Util ities Division P.O.Box 13087 Austin, Texas 78711 - 3087

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